

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
EASTERN DIVISION

CLOUDIA HILL, by and through her	)	
next friends and mother and father,	)	
PATRICIA HILL and KERRY HILL,	)	
and PATRICIA HILL and KERRY HILL,	)	
	)	
Plaintiff,	)	
	)	
VS.	)	No. 03-1219-T
	)	
MCNAIRY COUNTY, et al.,	)	
	)	
Defendants.	)	

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ORDER GRANTING MOTION TO DISMISS  
OF DEFENDANT MCNAIRY COUNTY

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Plaintiffs Cloudia Hill, Patricia Hill, and Kerry Hill have filed this action pursuant to 42 U.S.C. § 1983, alleging that Defendants McNairy County, McNairy County School System (“School System”), and various individuals connected with the School System have deprived them of their civil rights. Plaintiffs also seek enforcement of an administrative order made pursuant to the Individuals with Disabilities Education Act (“IDEA”), 42 U.S.C. § 1401 *et seq.*, and Tennessee special education law codified at T.C.A. § 49-10-101 *et seq.* Defendant McNairy County has filed a motion to dismiss the action as to it, and Plaintiffs have filed a response to the motion. For the reasons set forth below, the motion to dismiss is GRANTED.

A complaint should not be dismissed for failure to state a claim unless it is clear that the plaintiff would not be entitled to relief even if the factual allegations were proven. Conley v. Gibson, 355 U.S. 41, 45-46 (1957). The factual allegations must be taken as true, Hammond v. Baldwin, 866 F.2d 172, 175 (6<sup>th</sup> Cir. 1989), and it must be apparent that the plaintiff “can prove no set of facts in support of his claim which would entitle him to relief.” Conley v. Gibson, 355 U.S. 41, 45-46 (1957); Hammond, 866 F.2d at 175. The complaint must be read in the light most favorable to the plaintiff. Allard v. Weitzman (In re Delorian Motor Co.), 991 F.2d 1236, 1240 (6<sup>th</sup> Cir. 1993).

Defendant McNairy County has moved to dismiss the allegations against it on the ground that it is a separate and distinct entity from the School System.<sup>1</sup> Defendant cites Benson v. Hardin County, 116 S.W.2d 1025 (Tenn. 1938), in support of its argument. In that case, a school bus driver under contract with the Board of Education was found to have no cause of action against Hardin County for his salary because he had made his contract with the Board of Education. In response, Plaintiffs point to Bobo v. County of Moore, 341 S.W.2d 746 (Tenn. 1960), in which the Tennessee Supreme Court permitted Moore County to be named as a defendant for the purpose of enforcing a judgment obtained in prior litigation against the Moore County Board of Education and the school superintendent. Neither of these cases directly address the issue of whether a county and the county’s board

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<sup>1</sup> Defendant has also asserted other grounds as to why it should be dismissed. However, in light of the court’s decision, those grounds need not be discussed.

of education or school system are separate and distinct entities. However, the Sixth Circuit Court of Appeals has done so in Rollins v. Wilson County Government, 154 F.3d 626 (6<sup>th</sup> Cir. 1998).

In Rollins, in determining whether an employee could aggregate the years she spent employed by Wilson County with the years she was employed by the Wilson County School System for purposes of the Family Medical Leave Act, the Sixth Circuit Court of Appeals found as follows:

In Tennessee, the school systems operate separately from the county governments. See Rollins v. Wilson County Gov't, 967 F. Supp. 990, 996-97 (M.D. Tenn.1997) (tracing differences). The two entities have separate origins, functions, and management. The school systems arose from the Tennessee Constitution, whereas the counties derive from state statutes. The school systems follow uniform education standards, whereas the counties have no such state mandate. While the county governments approve the school systems' funding, different officials administer each entity. A county school board and superintendent manage the school system without input from other county officials. The school systems' officials are elected separately.

....

Here, Tennessee law definitively resolves the status of the Wilson County School System and Wilson County Government's Finance Department. **Under Tennessee law, the school systems are separate from the county governments.** The two entities have separate origins, functions, and management. E.g., State ex rel. Weaver v. Ayers, 756 S.W.2d 217, 221-22 (Tenn.1988) (noting that the county government controls funding, but that “the local board of education has exclusive control over many operational aspects of education policy”); City of Harriman v. Roane County, 553 S.W.2d 904, 908 (Tenn.1977) (“public education is essentially a state, rather than a county or municipal, function”). See also Rollins v. Wilson County Gov't, 967 F. Supp. 990, 996-97 (M.D. Tenn.1997) (tracing differences).<sup>2</sup> Cf. Reed

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<sup>2</sup> The Rollins district court distinguished between a county and a school system as follows:

As noted by Defendants, public school systems within the state of Tennessee were established by

v. Rhea County, 189 Tenn. 247, 225 S.W.2d 49, 50 (1949) (for purposes of immunity, board of education performs governmental functions).

Id. at 627 - 630 (emphasis added). The court noted that

“Rollins's own history illustrates the divide [between the county and the school system]. She worked for both entities as a payroll clerk, but each job entailed different working hours and pay. She had a different supervisor and a different office. The Wilson County School System issued one set of paychecks, whereas the Wilson County Government issued her later paychecks. While she never interviewed for the job change, rolls of red tape commemorated the switch. She had to fill out new insurance forms, tax forms, and employment eligibility forms upon changing jobs.

Id. 628. Consequently, because Rollins could not aggregate the time that she had spent

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the Constitution of the State of Tennessee. See Art. 11, § 12, Tenn. Const. Although counties were also established as arms of state government, counties were statutorily created by the state legislature, rather than by the state constitution. State v. Stine, 200 Tenn. 561, 292 S.W.2d 771, 772 (1956); Bayless v. Knox County, 199 Tenn. 268, 286 S.W.2d 579, 587 (1955).

Additionally, Tennessee Courts have noted that counties and school systems perform separate functions. Public education is, at core, a state rather than a county or municipal function, and the general education statutes set forth a uniform statewide system of public education. See City of Harriman v. Roane County, 553 S.W.2d 904, 908 (Tenn.1977). The case of State ex rel. Weaver v. Ayers, 756 S.W.2d 217, 222 (Tenn.1988) indicates that even though there are budgetary laws that involve county government officials, “education is fundamentally a State concern.” The County Financial Management System of 1981 also shows a “deference to the State's supervisor authority over education” by allowing the state commissioner of education to remove the education department of the county from the system. (T.C.A. § 5-21-124). The fact that there are financial connections between a local school system and local government does not detract from the essentially separate functions of these two entities.

A county is a corporation run by its local officials. See, e.g. State v. Read, 152 Tenn. 442, 446-47, 278 S.W. 71 (Tenn.1925). The schools of a county, on the other hand, are operated and maintained through the agency of the county board of education and a superintendent. Reed v. Rhea County, 189 Tenn. 247, 225 S.W.2d 49, 50 (1949). The school board and superintendent are not employees of the county government, but rather perform separate and distinct functions. Affidavit of James L. Francis. See also, State ex rel. Boles v. Groce, 152 Tenn. 566, 280 S.W. 27, 28 (1926) (discussing the separation of powers between a county school board and county government officials); Morgan County Bd. of Commissioners, et al. v. Morgan County Bd. of Ed., 1994 WL 111457, \*3-\*4 (Tenn.App.1994) (describing county school board and county commission as two separate entities with separate powers).

Rollins v. Wilson County Government, 967 F. Supp. 990, 996-97 (M.D. Tenn. 1997) (some citations omitted).

working for the county and the school system, she was not eligible for benefits under the Family Medical Leave Act. Id. at 630.

Because the Sixth Circuit has determined that, under Tennessee law, a school system is separate from the county government, Defendant McNairy County must be dismissed from the action. Accordingly, Defendant's motion to dismiss is GRANTED.

IT IS SO ORDERED.

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JAMES D. TODD  
UNITED STATES DISTRICT JUDGE

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DATE